

STATE OF ALABAMA)
)
_____ COUNTY)

STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NATURAL GAS STORAGE LEASE NO. 1

THIS AGREEMENT is made and entered into on this the _____ day of _____, 200____, by and between the STATE OF ALABAMA, acting by and through its Commissioner of the Department of Conservation and Natural Resources, hereinafter called "Lessor", and _____ whose address is _____, hereinafter called "Lessee".

NOW, THEREFORE, in consideration of the payment by Lessee of the sum of ten dollars (\$10.00) and other good and valuable consideration, **INCLUDING THE PAYMENT IN ADVANCE OF THE FIRST FIVE YEARS ANNUAL FEE SPECIFIED IN PARAGRAPH 6(a)(1) HEREOF, WITHOUT DISCOUNT**, receipt of which is hereby acknowledged, and of the rents, covenants, stipulations and conditions contained herein and hereby agreed to be paid, observed and performed by Lessee, the Lessor and the Lessee agree as follows:

1. **Definitions.** For the purposes of this Lease, the following definitions shall apply:

(a) "Gas Storage Formation" means that certain subsurface interval known as the Dauphin Sand Formation as defined in the Special Field Rules promulgated by the State Oil and Gas Board of Alabama for the North Dauphin Island Field to be the subsurface stratum in the interval between 1,868 feet measured depth and 1,964 feet measured depth or the stratigraphic equivalent thereof as indicated on the Dual Induction Log of the ARCO State Lease 686 Well No. 1 (State Oil and Gas Board Permit No. 7236-OS-37), said well being at a surface location North 70 degrees 04 minutes 04 seconds East 30,366.34 feet from USC&GC MON. Dauphin and also being 4,558 feet East and 5046.33 feet North from the Southwest corner of Tract 73, Offshore Mobile County, Alabama;

(b) "gas" means all natural gas, casinghead gas, occluded gas found in coalbeds and all other gaseous hydrocarbons that are not defined in this Lease as liquid hydrocarbons, except and not including helium gas, carbon dioxide (CO2) gas, and hydrogen sulfide (sour) gas; and provided that such gas at the time of injection generally meets the same minimum quality standards (other than delivery pressure) as required for treated gas delivered into natural gas transmission pipelines from the tailgate of onshore treating plants in Mobile County, Alabama;

(c) "associated substances" means water vapor and other vaporous or gaseous substances associated with, contained in and produced as an incident of production of natural gas, casinghead gas and occluded gas from coal beds by ordinary production methods and not defined in this Lease as liquid hydrocarbons; and provided that the extent of such associated substances in or with the gas shall not exceed the limits required for the gas at the time of injection to generally meet the same minimum quality standards (other than delivery pressure) as required for treated gas delivered into natural gas transmission pipelines from the tailgate of onshore treating plants in Mobile County, Alabama;

(d) "liquid hydrocarbons" means crude petroleum oil and other hydrocarbons, regardless of gravity, that are produced at the well in liquid form by ordinary production methods, including liquid hydrocarbons known as distillate or condensate recovered by post-production separation from gas, liquified petroleum gas as defined in Ala. Code §9-17-100, liquified natural gas ("LNG"), and natural gas liquids from distillation, fractionation or other natural gas

processing, and all other hydrocarbons in liquid form at the time of injection into the Gas Storage Formation;

(e) "Underground Gas Storage Act" means the provisions of Ala. Code § 9-17-150 et seq enacted pursuant to Acts 1992, No. 92-564, as hereafter amended or supplemented, and any rules, regulations or orders promulgated thereunder by the State Oil and Gas Board of Alabama;

(f) "Storage Operations Plan" means the final approved plan as specified in paragraph 8 of this Lease, and any final approved amendment thereof;

(g) "storage" means the activity of injection, subsurface containment and/or withdrawal of Non-Native Gas into, in or from the Gas Storage Formation, together with related construction, drilling, well completion, transportation, and treatment necessary or incidental thereto;

(h) "storage operations" means and includes actual operations conducted on or within the boundaries of the leased area for storage;

(i) "injection" means the deposit of Non-Native Gas into the Gas Storage Formation;

(j) "withdrawal" means the removal of Non-Native Gas from the Gas Storage Formation;

(k) "Native Gas" means gas within the Gas Storage Formation that has not been produced and for which production royalties have not been paid;

(l) "Non-Native Gas" means gas that has been previously produced and for which production royalties have been paid;

(m) "cushion gas" means the volume of gas needed as a permanent inventory in the Gas Storage Formation to maintain adequate pressure and deliverability rates throughout the withdrawal season;

(n) "working gas" means the volume of gas in the Gas Storage Formation excluding Native Gas and further excluding cushion gas, if any, in excess of Native Gas;

(o) "total capacity" means the maximum volume of gas which can be stored in the Gas Storage Formation in accordance with the Storage Operations Plan (which includes cushion gas and working gas);

(p) "working capacity" means the total capacity less cushion gas;

(q) "drill" or "drilling" means the act of boring a hole to reach a proposed bottom hole location through which gas and associated substances may be injected or withdrawn for storage purposes under the terms of this Lease, and includes redrilling, reworking, sidetracking, deepening, or other means necessary to reach the proposed bottom hole location, testing, logging, plugging, and other operations necessary and incidental to the actual boring and completion of the hole in preparation for and/or installation of a completed well;

(r) "force majeure" means unforeseeable acts exclusively occasioned by the violence of nature without the intervention of any human agency, unusually severe weather, Acts of War, riots, or any other cause beyond the Lessee's reasonable ability to foresee or control which results in operational failure of drilling, storage or transportation facilities;

(s) "Commissioner" means the Commissioner of the Department of Conservation and Natural Resources;

(t) "Department" means the State of Alabama Department of Conservation and Natural Resources;

(u) "State Oil and Gas Board" means the State Oil and Gas Board of Alabama.

2. **Grant.** Subject to the provisions of this Lease, Lessor demises, leases and lets unto Lessee, without warranty, the exclusive right for underground storage of gas and associated substances in the Gas Storage Formation insofar and only insofar as same underlies and to whatever extent same may exist within the boundaries of the following described property:

and subject to the stipulation by and between Lessor and Lessee that the above described property, referred to as the "leased area", shall be deemed to comprise _____ acres for the purposes of this Lease, regardless of whether it actually comprises more or less;

TOGETHER WITH the non-exclusive right: to enter upon, use, occupy and possess the leased area for the said purpose of underground storage of gas and associated substances in the Gas Storage Formation; to drill and complete wells thereon and therein for said purpose; and to use so much of the surface and subsurface immediately overlying the Gas Storage Formation within the boundaries of the leased area as may be reasonably necessary for said purpose to access and utilize the rights granted by this Lease, including the limited right to construct and operate such platforms, pipelines and other facilities as may be necessary for the injection, storage, withdrawal and transport of such gas and associated substances and the enjoyment of all such rights as are granted Lessee under this Lease, in accordance with all further provisions hereof;

SUBJECT TO all matters of public record including, without limitation, applicable current orders and rules promulgated by the State Oil and Gas Board, any valid and subsisting oil and gas lease until termination or expiration thereof, and such easements, leases, licenses and permits as may have been previously granted by Lessor and which pertain to the leased area;

TO HAVE AND TO HOLD the above described leasehold rights for the term hereinafter stated so long as Lessee, its successors and assigns comply with the provisions hereof.

3. **Reserved Rights.** (a) All rights within the leased area not expressly granted to the Lessee by this Lease or necessarily implied are hereby reserved to the Lessor. Without limiting the generality of the foregoing, reserved rights include the right to authorize geophysical and other explorations through and upon the leased area; the right to grant easements or other rights upon, through, or in the leased area relating to other interests in lands owned by or under authority of the Lessor, or to the removal of production therefrom; the right to install wells for completion in subsurface formations or intervals other than those contained in the Gas Storage Formation and related storage facility approved therefor under the Underground Gas Storage Act; and the right to grant leases, easements and agreements for any other purposes that are not exclusively granted to Lessee hereunder.

(b) The rights reserved may be exercised by Lessor, or by any other person or entity acting under authority of the Lessor, in any manner that does not unreasonably interfere with or endanger the Lessee's operations under this Lease.

4. **Term.** Unless otherwise terminated pursuant to the further provisions of this Lease, and so long as Lessee complies with said provisions and timely and fully pays the rental payments required under Paragraph 6 hereof, this Lease shall remain in force and effect for an initial term of ten (10) years from the date hereof.

5. **Renewal.** Provided the Lessee has complied with the provisions of this Lease, Lessee may extend this Lease for an additional ten (10) year term upon the same provisions, covenants, stipulations and conditions hereof by giving notice to Lessor of such extension in writing not later than thirty days prior to the expiration of the initial term. Thereafter, in like manner, this Lease may be extended at the election of Lessee for a maximum of three successive additional terms of ten (10) years each by Lessee giving written notice to Lessor of each such election not later than thirty days prior to the expiration of the then current term. Such initial term and four additional terms (if any) may not, in any event, exceed a total period of fifty years from the date hereof.

6. **Rental Payments.** (a) as rental for and during the initial term or any extended term of this Lease, as otherwise provided, Lessee agrees to and shall pay:

(1) an annual fee equal to three million dollars (\$3,000,000.00), which annual fee shall be due and payable in advance upon the execution date of this Lease and, thereafter, not later than the anniversary date hereof for each succeeding year for the duration of the initial term and each extended term, if any, of this Lease; and

(2) a monthly fee equal to the sum of \$0._____ per Mcf (thousand cubic feet) of Non-Native Gas injected into the Gas Storage Formation, subject to proportionate reduction in accordance with paragraph 6(b) hereof, which monthly fee shall be due and payable in arrears not later than thirty (30) days following the end of the calendar month during which such injection and/or withdrawal occurs.

(b) In the event Lessor owns less than all (100%) of the storage rights in the Gas Storage Formation or any part thereof as may be included in any storage facility approved pursuant to the Underground Gas Storage Act and the provisions of this Lease, the monthly rental payments due and payable under paragraph 6(a)(2) shall be proportionately reduced according to the ratio that the Lessor's ownership in the total capacity (or working capacity, if different) thereof bears to the total capacity (or working capacity, if different) thereof as determined by the Storage Operations Plan or any amendment thereto then in effect pursuant to the provisions of this Lease. Such rental payments shall not, in any event, be proportionately reduced for any separate part of the Gas Storage Formation being used for storage in which Lessor owns all (100%) of the storage rights if it is determined that such separate part being used is not in communication with any other part thereof.

(c) At the commencement of each subsequent year of this Lease, the rental rates specified in paragraph 6(a) will be adjusted according to the Consumer Price Index, as hereinafter defined, to increase by the lesser of two and one-half percent (2.5%) or the percentage increase reflected in such index occurring between the commencement date of the initial term of this Lease or the last occurring adjustment date pursuant to this paragraph, whichever is the more recent, and the commencement date of each such year for which adjustment is made. As used herein, "Consumer Price Index" shall mean:

Index: United States Department of Labor, Bureau of Labor Statistics, "All Items" Consumer Price Index for All Urban Consumers ("CPI"), US City Average (1982-84=100) published on or about the middle of March of the subsequent year for the previous calendar year.

In the event the said index ceases to be published, Lessor may substitute such other reasonably comparable cost of living index as then may be in publication by a comparable governmental agency. Failure to adjust rental payments pursuant to this paragraph prior to the commencement of any subsequent year, or by any specific date, shall not constitute or be deemed a waiver by Lessor of the right to such adjustments.

(d) In the event the Lessee fails to make any rental payment due hereunder upon the date due, Lessor shall be entitled to further payment from the Lessee of a late charge equal to six percent (6%) of the amount of the delinquent payment or \$500, whichever is less, and shall also pay interest at the applicable statutory rate on rental payments or other sums owing under the terms of this Lease commencing on the date such rent or other sum becomes past-due.

(e) Notwithstanding any other provision of this Lease, rental payments and all other sums payable by Lessee hereunder shall be due and payable according to the provisions hereof without the requirement of prior notice or demand by Lessor, and shall not be subject to any counterclaim, setoff or deduction and without abatement unless otherwise expressly provided in this Lease.

(f) All rental and other payments to Lessor shall be made payable in the manner directed by Lessor, and unless otherwise specified, shall be delivered to the Lessor as follows:

Director, State Lands Division
Department of Conservation and Natural Resources
64 North Union Street
Montgomery, AL 36130-1901

or to any depository designated by the Lessor with at least 60 days prior notice to Lessee.

(g) Upon commencement of storage operations, Lessee shall thereafter furnish to Lessor a monthly statement certified by Lessee which specifies the amount and basis for payments due Lessor, together with the accompanying report required under paragraph 17(c).

7. Compliance With Underground Gas Storage Act. Prior to conducting storage operations under this Lease, Lessee shall comply with the provisions of the Underground Gas Storage Act, and shall obtain and comply with all approvals, orders and regulations thereunder as may be required or promulgated by the State Oil and Gas Board.

8. Storage Operations Plan. (a) In requesting orders of approval required pursuant to the Underground Gas Storage Act, Lessee agrees to and shall submit to the State Oil and Gas Board in support thereof a proposed storage operations plan for the Gas Storage Formation that specifies, at a minimum, the following:

(1) Lessee's overall plan for development and use of the Gas Storage Formation that describes the proposed activities for storage, including: the number and location of proposed wells, pipelines and other facilities; details of proposed storage operations (including projected injection and withdrawal volumes) for at least the first two years following submission of Lessee's storage operations plan; projected long-range activities by Lessee relating to use for gas storage of the leased area; the proposed sequence and schedule of operations to be conducted, including the date operations are proposed to begin and their expected duration; and a statement of Lessee's overall business plan for use of the Gas Storage Formation which sets forth economic information and projections sufficient to demonstrate that same has a greater value or utility for the storage of gas and associated substances than for the production of any remaining volumes of recoverable hydrocarbons;

(2) a determination of the total capacity and working capacity, if different, of the Gas Storage Formation, and the basis for such determination;

(3) a determination of (i) the volume of remaining commercially recoverable oil and/or gas in the Gas Storage Formation, (ii) the volume, if different, of Native Gas remaining therein, and (iii) the volume of cushion gas necessary for storage operations; together with a determination as to each of the foregoing volumes of the portion thereof that is attributable to Lessor's ownership in that part of the Gas Storage Formation located in or underlying the leased area, and the basis for such determinations.

(4) the maximum well injection pressure for Lessee's storage operations; the maximum equilibrium pressure to which the Gas Storage Formation will be subjected during Lessee's storage operations; the maximum flow rate for each well for withdrawal purposes; and Lessee's plan for accurately monitoring and reporting the foregoing;

(5) methods to be employed to abandon all drill holes, wells and related facilities;

(6) an environmental statement specifying the methods to be employed to minimize disturbance to the leased area and to protect surface and ground water quality, native vegetation, and fish and wildlife habitat;

(7) a public safety emergency contingency plan;

(8) facility location maps for Lessee's proposed wells, pipelines and other facilities and supporting geological and engineering exhibits that include data, drawings and/or schematics, projections and calculations for the matters and determinations included in the storage operations plan; and

(9) such other information and specifications as may be required by the State Oil and Gas Board pursuant to the Underground Gas Storage Act.

(b) Subject to the foregoing, Lessee shall have a storage operations plan approved and/or incorporated by reference in an order of approval issued by the State Oil and Gas Board under the Underground Gas Storage Act (herein referred to as the "Storage Operations Plan") prior to conducting storage operations under this Lease, and shall thereafter conduct operations in compliance therewith.

(c) Lessee shall obtain, at its sole expense, an opinion letter addressed to Lessor from a qualified and licensed petroleum engineer stating that storage operations to be conducted by Lessee consistent with the Storage Operations Plan will reasonably insure:

(1) that the Gas Storage Formation, as approved as a gas storage facility under the Underground Gas Storage Act, is suitable and feasible for the injection, storage and withdrawal of gas and associated substances;

(2) that the use of the Gas Storage Formation for the underground storage of gas and associated substances will not contaminate other formations containing oil, gas or other commercial mineral deposits; and

(3) that the proposed storage of gas and associated substances will not unduly endanger lives and property.

(d) Lessee shall submit the Storage Operations Plan and accompanying opinion letter as required in paragraph 8(c) hereof to Lessor before commencing operations on the leased area.

(e) Lessee shall in no event effect, undertake or continue any operational changes from an approved Storage Operations Plan that either are or would result in an alteration of material conditions approved by the State Oil and Gas Board. The term "material conditions" for the purposes of this paragraph shall include any matter that would cause or result in substantial contravention of any of the opinions and matters set forth in the opinion letter required under paragraph 8(c) hereof. In the event Lessee desires to amend the Storage Operations Plan, Lessee shall first comply with all provisions of this paragraph 8 as to any and each such desired amendment.

(f) Nothing in this Lease shall be deemed to constitute a waiver or relinquishment of Lessor's rights, in its discretion, to institute or participate in any proceeding before the State Oil and Gas Board of Alabama at any time.

9. **No Withdrawal of Native Gas.** In no event shall Native Gas attributable to Lessor's ownership be withdrawn, produced or removed by Lessee from the Gas Storage Formation for sale or use except by and pursuant to a separate, valid and subsisting oil and gas lease executed by Lessor for such purposes; and any withdrawal, production or removal of said Native Gas is otherwise expressly prohibited hereby and excluded from any rights granted by the provisions of this Lease.

10. **Commencement and Notice of Storage Operations.** Subject to the provisions of paragraph 19, Lessee shall commence storage operations hereunder, particularly including the actual injection of Non-Native Gas into the Gas Storage Formation, within two (2) years from the date of this Lease, and shall thereafter continue such storage operations in good faith during the initial term or extended terms, if any, hereof with no cessation of such operations of more than one hundred and eighty (180) consecutive days. Written notice of all operations on the leased area shall be submitted to the State Lands Division of the Department by Lessee or Lessee's authorized agent not less than five (5) days before the commencement date thereof; including, without limitation, operations for drilling, workover, reentry, temporary abandonment or the plugging and abandonment of any well, the construction of platforms, pipelines or other facilities, and the initial injection of Non-Native Gas into the Gas Storage Formation. Lessee shall supply the State Lands Division of the Department with any records, findings, reports or other information relative to drilling and storage operations on the leased area, or on acreage combined, pooled, or operated therewith as part of any approved storage facility, which may be requested by the said State Lands Division.

11. **Location and Permitting of Facilities.** (a) It is specifically understood and agreed by Lessee that the location of all drilling structures, platforms, pipelines and other facilities as may be contemplated for the purposes of this Lease must first be approved in writing by the Commissioner before same will be permitted, which approval shall not be unreasonably withheld. Nothing contained in this Lease shall be construed as granting to the Lessee any interest, license, easement or other right in any adjoining lands that do not overlie the Gas Storage Formation or are outside the surface boundaries of the leased area.

(b) In the event any permit, license, order, authorization, or other approval is required from any State or Federal governmental agency to lawfully conduct drilling, construction, site preparation, gas storage or other use of the leased area as contemplated by this Lease, same will be formally obtained and had by Lessee before operations relating to such matters begin. Lessee shall be solely responsible for obtaining all governmental permits and approvals as may be necessary or required to effect the purposes of this Lease, and Lessee further acknowledges that no such required permits or approvals are waived by the granting of this Lease by the Lessor.

(c) Lessee understands and agrees that this Lease does not grant any formal easement or permit to Lessee to construct or lay pipe on or in the bed or bottom of any state owned water areas, whether or not such water areas are included within the boundaries of the leased area, and that such grants or permits must be obtained from Lessor by separate agreement. If, for the purposes of this Lease, the reasonable use of the bed or bottom of any State owned water areas within the boundaries of the leased area is requested by Lessee to construct or lay pipe thereon or therein, Lessor shall not require further monetary consideration therefor; however, Lessor may, in its discretion, require additional information, covenants and conditions before issuing such grant or permit by separate agreement.

(d) Lessee may not inject or store liquified natural gas ("LNG") in the Gas Storage Formation, nor shall this Lease be construed in any way as allowing Lessee to construct facilities or pipelines of any description on or across the leased area for the transport and/or handling of LNG.

12. **No Warranty of Title.** (a) This Lease is made by Lessor without warranty of title, either express or implied, and pertains to only whatever present interest Lessor may have in the leased area. No representations, warranties or guarantees of any kind are made by Lessor as to title or access to or quiet enjoyment of the leased area, and Lessor shall not be subject to any liabilities whatsoever on account of any defect in title. Lessee represents and agrees that

Lessee has investigated the title and is satisfied with such title as Lessor may presently have. Lessor hereby disclaims any covenant or warranty of quiet enjoyment or peaceful possession. Lessee and its successors shall not be entitled to any refund from Lessor for any deficiency of title as to any payments made under this Lease.

(b) This Lease is made subject and subordinate to all current orders and rules of the State Oil and Gas Board and to any valid and subsisting oil and gas lease on or including the leased area and to termination or expiration thereof, if applicable, prior to commencement of operations hereunder.

13. **Condition of Property.** Lessee accepts the Gas Storage Formation and the leased area in its present condition, as is, without any warranty or representation by Lessor as to fitness for any particular purpose. Lessor has no obligation to make any repairs, additions, or improvements to the leased area, and expressly disclaims any warranty or representation that the leased area or any part thereof is suitable for underground gas storage purposes or related activities.

14. **Environmental Safeguards.** Lessee shall use the highest degree of care and all proper safeguards to prevent land or water pollution resulting from drilling, construction, transportation, and other gas storage operations pursuant to this Lease. Lessee shall use all means at its disposal to recapture all escaped pollutants and shall be solely responsible for all damages, if any, to aquatic or marine life, wild life, birds, and any public or private property that may result from any such land or water pollution occasioned by Lessee's operations hereunder. However, as long as Lessee is in compliance with applicable Federal and State environmental laws and permits, Lessee shall not be responsible for such damages if Lessee establishes that the prohibited discharge or other polluting condition was proximately caused by any of the following: (i) force majeure, (ii) an act of government, either federal, state or local; (iii) an act or omission of a third party, provided such third party was not the agent of nor acting with the consent or authority of the Lessee, express or implied. Lessee shall report all unpermitted discharges of pollutants to the State Lands Division of the Department within five (5) days of such spills or leakage.

15. **Indemnity.** Lessee shall be solely responsible and liable for all operations conducted by Lessee or Lessee's agents, employees, contractors and assignees hereunder. Lessee agrees to indemnify and hold Lessor, the State of Alabama, the Department, the Commissioner and his authorized representatives and agents harmless from and against any and all claims, actions, lawsuits, demands, loss or liability arising from damage or injury of any kind to persons or property arising from operations hereunder, however occasioned. Lessee further agrees to indemnify and hold Lessor, the State of Alabama, the Department, the Commissioner and his authorized representatives and agents harmless from and against any and all claims, actions, lawsuits, demands, loss or liability arising wholly or in part from or in connection with the condition, use or possession of the leased area in any way relating to the Lessee's exercise of rights granted herein. Lessee's covenants to indemnify and hold Lessor harmless shall include all court costs and other expense reasonably incurred by Lessor in defending said matters, including without limitation all reasonable attorneys fees, expert and consultant fees, judgments, fines, and other expenses reasonably incurred or incidental to such defense.

16. **Records and Access.** (a) Lessee shall prepare, maintain and keep for the duration of this Lease a complete and detailed record and accounting system of all business affecting rental or other payments due the Lessor, organized for each year of operation and including records and reports pertaining to all volumes of gas and associated substances injected and/or withdrawn during storage operations. The Lessee shall permit the Lessor or its agents to examine all supporting books, records and accounting systems at all reasonable times. Such books, records and accounting systems must employ methods and techniques that will insure the most accurate figures reasonably available. Lessee agrees to and shall use generally accepted accounting principles consistently applied in the preparation of same.

(b) Lessor or its authorized representatives or agents shall at all reasonable times have access to the wells, platforms, equipment, gauges, meters, buildings, structures and other

facilities used in storage operations, and to all books, charts and other records pertinent to the foregoing and to the storage of gas and associated substances contemplated by this Lease.

(c) At its option, and upon reasonable notice, the Lessor may cause a complete audit to be made of the Lessee's business affairs and records relating to the leased area for any pertinent period covered by any statement, payment or report issued by Lessee. If such an audit should disclose a liability of this Lease for rental or other payments due Lessor under paragraph 6 in excess of those computed and paid by the Lessee for such period, Lessee shall promptly remit that amount to Lessor, together with interest at the statutory rate. Further, if such liability exceeds the amount paid by five percent (5%) or more, the Lessee shall pay the Lessor's audit costs in addition to the liability.

(d) In no event shall any inspection or audit by Lessor pursuant to the provisions of this Lease, nor the unexercised right to do so at any future time, be deemed a waiver or estoppel of or as to Lessor's reliance on the correctness, accuracy and/or truth of statements, reports, payments and other information furnished to Lessor by Lessee; and it is stipulated by the parties that all such statements, reports, payments and other information are deemed material insofar as same relate, directly or indirectly, to the rental and other payments due Lessor hereunder and that Lessor may and shall fully rely on the correctness, accuracy and/or truth thereof.

17. Gas Measurement and Reports. (a) Lessee shall measure all gas injected into and withdrawn from the Gas Storage Formation, and shall keep accurate written records of all such injections and withdrawals for the duration of storage operations conducted under this Lease.

(b) All injection and withdrawal of gas and associated substances shall be accurately measured using current standards established by the American Gas Association (AGA) and/or the American Petroleum Institute (API), including maintaining current standards for meter calibration.

(c) Lessee shall submit to the State Lands Division of the Department a report in a form to be specified by Lessor accompanying each monthly rental payment required under paragraph 6(a)(2) which shall include a statement certified by Lessee of the total volume of gas injected into and the total volume of gas withdrawn from the Gas Storage Formation during the calendar month for which monthly payment is being made, together with a statement explaining the basis for any proportionate reduction of such rental payments(if applicable) consistent with the provisions of paragraph 6(b).

(d) The amount of injected and withdrawn gas reported each month must be computed at a standard pressure of 14.65 pounds per square inch absolute and a standard temperature of 60 degrees Fahrenheit, regardless of the pressure and temperature at which the gas was actually measured.

(e) Lessee shall further provide any other measurement, metering, engineering, geological, or operational data that may be requested by Lessor.

18. Management and Due Diligence. (a) Lessee shall perform all operations under this Lease in a good and workmanlike manner in accordance with the methods and practices set out in the approved Storage Operations Plan, with due regard for all rights and interests of Lessor. The leased area and all improvements thereon shall otherwise be managed and maintained in accordance with customary standards of the industry.

(b) Lessee shall exercise reasonable diligence in commencing, continuing and conducting storage operations hereunder unless consent to suspend operations temporarily is granted by Lessor in accordance with paragraph 19 hereof.

(c) Lessee shall not conduct storage operations in contravention of the Storage Operations Plan or in any manner that will prevent or harm the future use of the Gas Storage Formation for gas storage.

19. **Suspension of Operations.** The Commissioner may from time to time direct or approve in writing suspension of storage operations, in whole or in part, under this Lease and/or a corresponding extension of term hereof for any reason deemed a good cause in the Commissioner's sole discretion. If the Commissioner determines that the Lessee has been prevented by force majeure, after efforts made in good faith, from performing operations under this Lease, this Lease will not expire during the period of force majeure. Provided, however, that nothing in this paragraph shall suspend the obligation of Lessee to make the rental payments as required under paragraph 6 of this Lease.

20. **Default and Termination.** (a) The failure of Lessee to timely perform its obligations under this Lease or the failure of Lessee to otherwise comply with the provisions of this Lease shall constitute a default of Lessee's obligations and covenants hereunder. If Lessee fails within forty-five (45) days after written notice of such default to either remedy or begin and diligently prosecute operations to remedy such default, Lessor may terminate this Lease if at the time of termination there is no Non-Native Gas within the Gas Storage Formation under the leased area. Lessor shall give written notice to Lessee of the effective date and event of any such termination. If there is Non-Native Gas within the Gas Storage Formation under the leased area, Lessee shall have a reasonable period of time, not to exceed one year from the date of written notice by Lessor of termination, in which to withdraw the Non-Native Gas from the Gas Storage Formation.

(b) Termination hereunder by default of Lessee or as declared by Lessor shall, in no event, relieve or release Lessee from the rents, covenants, stipulations and conditions previously accrued as provided in this Lease, and the liability and obligation in regard to same shall survive termination until satisfied by Lessee.

21. **No Waiver by Lessor.** The consideration of and any actual declaration of termination shall not constitute a waiver or election by Lessor of either legal or equitable remedies otherwise available to Lessor, whether founded in contract, tort or trespass, for any claim of damages of any kind arising by virtue of the conduct of Lessee. Likewise, the consideration or declaration of termination by Lessor shall not constitute an estoppel as to any or all claims that could otherwise be pursued by Lessor.

22. **Rights Upon Termination.** Upon the expiration or earlier termination of this Lease as to all or any portion of the leased area, Lessor shall direct the Lessee in writing and the Lessee shall have the right at any time within a period of one year after the expiration, termination or cancellation, or any extension of that period as may be granted by Lessor, to remove from the leased area or portion of the leased area all personalty, machinery, equipment, tools, and materials. Upon the expiration of that period or extension of that period and at the option of Lessor, any personalty, machinery, equipment, tools, and materials that the Lessee has not removed from the leased area or portion of the leased area become the property of Lessor and may be removed by Lessor at the Lessee's expense. At the option of Lessor, all improvements must either be abandoned and the sites rehabilitated by the Lessee to the satisfaction of the Lessor, or be left intact and the Lessee absolved of all further responsibility as to their maintenance, repair, and eventual abandonment and rehabilitation. Subject to the above conditions, the Lessee shall deliver up the leased area or those portions of the leased area in good condition.

23. **Authorized Representatives.** The Commissioner and the person executing this Lease on behalf of the Lessee will be authorized representatives for their respective principals for the purposes of administering this Lease. Lessor or the Lessee may change the designation of its authorized representative, or the address to which notices to that representative are to be sent, by notice given in accordance with the further provisions hereof.

24. **Notices.** Any notices required or permitted under this Lease must be by electronic media producing a permanent record or in writing and must be given personally or by registered or certified mail, return receipt requested, addressed as follows:

TO THE LESSOR: Director, State Lands Division
Department of Conservation and Natural Resources
64 North Union Street
Montgomery, AL 36130-1901

TO THE LESSEE:

25. **Interpretation.** (a) Unless otherwise specified or required under any provision of this Lease, this Lease is to be interpreted in accordance with Alabama law and rules applicable to construction and interpretation of contracts.

(b) The parties stipulate that the paragraph headings are not material and are inserted only for convenience.

(c) The term "including" when used in this Lease will be by way of example only and shall not be considered in any way to be in limitation.

(d) Any reference to a dollar amount contained in this Lease will refer to United States dollars.

(e) Unless otherwise stated, any reference in this Lease to any person, entity, or organization includes its permitted successors and assigns and, in the case of any governmental authority, any person succeeding to its functions and capacities.

(f) In case of ambiguity, this Lease always shall be construed in favor of Lessor and against Lessee.

26. **Lessor's Lien.** (a) The State of Alabama shall have a first lien upon all rights granted hereby to Lessee and to all personalty, fixtures and equipment located in, on or upon the leased area as security for payment of all unpaid rentals and other sums of money that may become due under this Lease.

(b) Upon the expiration, termination or forfeiture of this Lease and until satisfaction of Lessor's lien, Lessee shall not, in any event, be permitted to remove the casing or any part of the equipment from any useable or abandoned well or wells without the prior written consent of the Commissioner or his authorized representative; nor shall Lessee without the prior written consent of said Commissioner or his authorized representative remove from the leased area any other materials, machinery, personalty, fixtures, equipment or property owned by Lessee.

27. **Assignment.** Lessee understands and agrees that in the event of any assignment, sale or transfer of this Lease, such assignment, sale or transfer will be invalid, void and to no effect unless approved in writing by the Commissioner of Conservation upon application therefor and payment of a \$250.00 administrative fee. Assignment approval will not be unreasonably withheld.

28. **Lessee's Right to Surrender.** Lessee may surrender all or any portion of the leased area at any time by recording the relinquishment in the county where this area is situated and filing the recorded relinquishment or certified copy of same in the State Lands Division Office within ninety (90) days after its execution. Such relinquishment will not have the effect of releasing Lessee from any liability theretofore accrued in favor of the State, nor shall such partial release or surrender reduce or otherwise affect the amount of rental provided for in paragraph 6 of this Lease then accrued.

29. **Prohibition Against Hazardous Waste.** Lessee shall not deposit on the lands leased hereby any hazardous or nuclear waste now or hereafter, defined as such by applicable

law, nor shall any petroleum products be stored in an underground storage tank on the premises. All waste and garbage must be removed by a licensed contractor. Upon written request, during the term of this Lease and at the termination of this Lease for any cause, the Lessee shall furnish to Lessor a representation and warranty that the property shall not have been used to store or dispose of toxic or other hazardous waste or material or medical waste or any other substances that would either constitute a violation of any environmental or health law or regulation ("Hazardous Materials") and which would subject the Lessor or the Lessee to fines or clean up expense or otherwise require the removal of such substances. Lessee agrees to fully indemnify Lessor against any loss, damage or liability, including, without limitation, reasonable attorney's fees, expert witness fees, and clean up costs arising out of Lessee's activities on the property leased hereby for any inaccuracies in any of the warranties made therein. Lessee further warrants and agrees that any hazardous waste, hazardous substances, Hazardous Material, toxic substances, hazardous air pollutants, as those terms may be defined as of the termination of this Lease, shall expressly be subject to the aforementioned warranties and the Lessee shall not permit any such material to be brought on the property; or, if so brought on, so brought on or found located thereon, Lessee shall immediately remove the same with the proper disposal and perform all required environmental clean up procedures of any nature which shall be diligently undertaken pursuant to all of such laws, ordinances, and regulations. The above representations and warranties shall survive the termination of this Lease, shall expressly be binding upon Lessee and any assignee of Lessee and shall be in addition to and not be limited by any other warranty or representation herein made.

30. Insurance Requirements.

(a) Evidence of Insurance: Lessee must furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to Lessee, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. The Certificate of Insurance must reference this Lease.

(b) Cancellation: The Certificate(s) of Insurance must provide 45 days written notice to Lessee via certified mail before the cancellation, non-renewal, or material change of any insurance coverage included therein.

(c) Additional Requirements:

(1) All policies required hereunder must name Lessee as an additional insured.

(2) All insurance policies required hereunder must provide the liability coverage specified herein on an occurrence basis.

(3) All insurance policies required hereunder must be issued by an insurer admitted and licensed by the Insurance Commissioner to do business in the State of Alabama. All such insurers must have a Best's rating of B plus (B+) or better.

(d) Minimum Coverage Requirements: The minimum coverage requirements set forth herein shall be construed as the *minimum* limits of insurance that Lessee must attain and/or purchase to perform the requirements hereunder. The attainment and/or purchase of these minimum limits of coverage shall not, in any event, relieve Lessee from liability for losses to the extent of, or in excess of, such minimum limits if Lessee's liability otherwise arises under the terms of this Lease. At all times during the initial term or any extended term of this Lease, Lessee must maintain, and shall require all independent contractors to maintain while performing work on the leased area, the minimum insurance coverages and limits specified below:

(1) Commercial General Liability ("CGL") Insurance. Lessee must purchase and maintain CGL insurance in a form and upon terms acceptable to Lessor covering liability arising from operations conducted pursuant to this Lease, including personal injury and property damages, on an occurrence basis. Such insurance must include liability coverage at not less than the following specified limits:

Each Occurrence Limit	\$ 5,000,000
General Aggregate Limit	\$10,000,000

(2) Worker's Compensation and Employer's Liability Insurance: The Lessee must purchase and maintain insurance covering obligations imposed by Federal and State statutes having jurisdiction of its employees in the performance of work, including Employer's Liability Insurance.

31. **Performance Security for Abandonment of Facilities.** Prior to conducting any operations under this Lease, Lessee shall furnish a performance security bond in a form and upon terms acceptable to Lessor from an approved corporate surety company authorized to do business in the State of Alabama, or such other surety as may be acceptable to Lessor, in an amount reasonably calculated to assure payment of the cost of the proper and safe abandonment of all facilities to be constructed hereunder, including wells, pipelines and other facilities for gas storage operations.

32. **Miscellaneous:**

(a) **Inurement.** All of the provisions of this Lease shall inure to the benefit of and be binding upon the parties hereto, their heirs, administrators, successors and assigns.

(b) **Governing Law.** Lessee and Lessor agree that the laws of the State of Alabama shall govern and control the rights of the parties hereunder, and stipulate that the proper venue of any legal action to be brought for any matter in connection herewith shall be the circuit court of Montgomery County, Alabama. Nothing herein contained shall constitute a waiver by, or estoppel as to, Lessor asserting immunities or defenses of any kind, such rights being expressly retained by Lessor.

(c) **Non Discrimination.** Lessee further agrees to comply with all state and federal laws which prohibit discrimination on the basis of race, color, religion, age, gender, national origin or disability.

(d) **Force Majeure.** All express or implied covenants of this Lease shall be subject to all valid and irremediable Federal and State Laws, Executive Orders, Rules or Regulations, and this Lease shall not be terminated in whole or in part, nor Lessee held liable in damages for failure to comply therewith, if compliance is prevented by, or failure is the result of, any such valid and irremediable Law, Order, Rule or Regulation, or force majeure. "Irremediable" means that either (i) the Lessee has sought unsuccessfully to have the Law, Order, Rule or Regulation set aside, modified or held unconstitutional or inapplicable insofar as necessary to enable the Lessee to fulfill its obligations to the Lessor and has pursued its efforts to the last tribunal having jurisdiction, or (ii) a competent lawyer, having due regard for the interests of both Lessor and Lessee, would opine that any effort by Lessee under subparagraph (i) above would be clearly without merit or chance of success. Notwithstanding the foregoing, no provision of this paragraph shall be construed to suspend the obligation of Lessee for payment of rentals or other sums during any term of this Lease as may be specified in paragraph 6.

IN WITNESS WHEREOF, the Parties to this lease have duly executed and affixed their signatures on this the _____ day of _____, 20____.

RECOMMENDED:

**STATE OF ALABAMA
DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES**

**James H. Griggs, Director
State Lands Division**

M. Barnett Lawley, Commissioner

APPROVED:

TERMS ACCEPTED:

By: _____

Its: _____

APPROVED:

ATTEST:

Bob Riley
Governor of Alabama

Beth Chapman
Secretary of State

STATE OF ALABAMA)
MONTGOMERY COUNTY)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that M. Barnett Lawley, whose name as Commissioner of CONSERVATION AND NATURAL RESOURCES OF THE STATE OF ALABAMA is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing instrument, he, in his official capacity and with full authority executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 200____.

Notary Public

STATE OF _____)
_____)

I, the undersigned Notary Public in and for said State and _____, hereby certify that _____ whose name as _____ of _____ is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she executed the same voluntarily for and as the act of _____, on the day same bears date.

Given under my hand and seal this the _____ day of _____, 200____.

Notary Public